ATTORNEY FOR APPELLANT:

WILLIAM F. THOMS, JR.
Thoms & Thoms
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

ARTHUR THADDEUS PERRY
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

TISHANA NASH,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0611-CR-673
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Israel N. Cruz, Master Commissioner
Cause No. 49F19-0510-CM-172805

July 2, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Tishana Nash ("Nash") appeals her conviction for battery as a Class A misdemeanor, arguing that the State presented insufficient evidence to support her conviction. Finding the evidence sufficient to support Nash's conviction, we affirm the judgment of the trial court.

Facts and Procedural History

Nash has a history of unfriendly encounters with her neighbor, Brenda Jackson ("Brenda"). On August 29, 2005, Tracy Jackson ("Tracy") and Sidney McIntyre ("McIntyre") went to Brenda's apartment. Brenda, Tracy, and McIntyre were standing outside, when Nash appeared on her balcony and started yelling at Brenda. At some point, Nash threw a glass ashtray at Brenda. When the ashtray hit the concrete behind Brenda, it shattered, and a piece of broken glass struck and cut Brenda. Nash said, "I tried to kill you b****. I tried to kill you. You ought to be glad I didn't kill you b****[.]" Tr. p. 13. Brenda did not see Nash throw the ashtray, but Tracy and McIntyre did. The State charged Nash with Battery as a Class A misdemeanor.[1] After a bench trial, the trial judge found Nash guilty as charged. Nash now appeals.

Discussion and Decision

On appeal, Nash raises a single issue: whether the State presented sufficient evidence to prove beyond a reasonable doubt that Nash committed battery as a Class A misdemeanor. Upon a challenge to the sufficiency of evidence to support a conviction, a reviewing court does not reweigh the evidence or judge the credibility of witnesses.

[1] Ind. Code § 35-42-2-1(a).

McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). We must consider only the probative evidence and reasonable inferences supporting the verdict. *Id*. We must affirm if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id*. A person commits battery as a Class A misdemeanor if she knowingly or intentionally touches another person in a rude, insolent, or angry manner and the touching results in bodily injury to any other person. Ind. Code § 35-42-2-1(a). On appeal, Nash contends that the evidence is not sufficient to show "an intent to commit battery" because the ashtray did not strike Brenda directly but rather shattered "some distance away." Appellant's Br. p. 3-4. We disagree.

"Intent, being a mental state, can only be established by considering the behavior of the relevant actor, the surrounding circumstances, and the reasonable inferences to be drawn therefrom." *Richardson v. State*, 856 N.E.2d 1222, 1227 (Ind. Ct. App. 2006), *trans. denied*. Furthermore, "intent to commit a battery may be determined from a consideration of the conduct and the natural and usual sequence to which such conduct logically and reasonably points." *Wells v. State*, 555 N.E.2d 1366, 1371 (Ind. Ct. App. 1990), *reh'g denied*. Here, there was testimony that Nash was yelling at Brenda, that Nash threw the ashtray in Brenda's direction, and that Brenda was struck by a piece of broken glass. Furthermore, Brenda testified that after Nash threw the ashtray, she said to Brenda, "I tried to kill you b****. I tried to kill you. You ought to be glad I didn't kill you b****[.]" Tr. p. 13. The evidence is sufficient to show, in Nash's words, "an intent

to commit battery." Appellant's Br. p. 4. Therefore, we affirm Nash's conviction for battery as a Class A misdemeanor.

Affirmed.

SULLIVAN, J., and ROBB, J., concur.